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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO DIVISION**

OWEN DIAZ,

Plaintiff,

v.

TESLA, INC. DBA TESLA MOTORS, INC.,

Defendant.

Case No. 3:17-cv-06748-WHO

**JOINT TRIAL EXHIBIT LIST**

Pretrial Conference: February 27, 2023

Time: 2:00 p.m.

Place: Courtroom 2, 17th Floor

Judge: Hon. William H. Orrick

Trial: March 27, 2023

Complaint Filed: October 16, 2017

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
1	Racist drawing on cardboard bale (Zoomed out)	1/21/2016	ODIAZ000008	Owen Diaz				
2	Racist drawing on cardboard bale (Zoomed in)	1/21/2016	ODIAZ000009	Owen Diaz				
6	Tesla Anti-Handbook Handbook (Depo Exhibit 62)		TESLA-0000211-214	Annalisa Heisen (Tesla PMK); Chenoa Chavez (Tesla PMK)				
19	Owen Diaz Tesla ID Badge (Depo Exhibit 37)			Owen Diaz	Relevance	Defendant		
31	Email: Owen complaint re Ramon Martinez threats to Ed Romero; nextSource discussion afterward (Quintero Depo Exhibit 35)	10/17/2015	TESLA-0000140-142	Wayne Jackson				
33	Email: Owen complaint re racist effigy/Ramon Martinez to Ed Romero (Depo Exhibit 37)	1/22/2016	TESLA-0000035-37	Wayne Jackson				
37	Email: Ed Romero follow up with Kawasaki re Jamie discussion (Depo Exhibit 41)	8/1/2015	TESLA-0000509	Ed Romero				
38	Email: Kawasaki to Romero re Owen's 7/31/15 complaint of "comments...racist in	8/2/2015	TESLA-0000510	Tom Kawasaki				

<b>Exhibit</b>	<b>Description</b>	<b>Date</b>	<b>Bates</b>	<b>Witness Associated</b>	<b>Objection</b>	<b>Party</b>	<b>Date Identified</b>	<b>Date Admitted</b>
	nature” (Depo Exhibit 42, 120)							
39	Email: Romero to Quintero re Owen’s 7/31/15 complaint re Judy Timbreza “racially offensive remarks” (Depo Exhibit 43, 121)	8/4/2015	TESLA-0000511	Ed Romero				
40	Email: Kawaski follow up with Romero after Owen complaint (Depo Exhibit 44, 120)	8/3/2015	TESLA-0000512	Ed Romero				
41	Email: Romero to Quintero re Owen’s 7/31/15 complaint of Judy remarks (Depo Exhibit 45)	8/4/2015	TESLA-0000513	Victor Quintero				
49	Email: Martinez to Romero/Josue Torres re Owen not professional (Depo Exhibit 55, 125)	10/17/2015	TESLA-0000641	Ed Romero				
62	Tesla/Taleo profile – Candidate: Owen O. Diaz (Depo Exhibit 79)	5/31/2015	TESLA-0000163-169	O. Diaz	Relevance	Plaintiff		
68	Email: End of Contract notice of Owen Diaz (Depo Exhibit 96)	5/4/2016	TESLA-0000144	Ed Romero or Annalisa Heisen (Tesla PMK)				
74	Email: Jackson to Gryske, investigating “Ramon Owen incident” (Depo Exhibit 124)	10/19/2015	TESLA-0000635-636	Wayne Jackson	Duplicative of 76	Plaintiff		

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
76	Email: Jackson and Terri Garrett re Ramon and Owen incident; no formal investigation/written warning needed (Depo Exhibit 127)	10/21/2015	TESLA-0000646-647	Wayne Jackson				
83	Email: Joyce Delagrande to Romero/Quintero; Romero to Quintero re Owen issues (Depo Exhibit 142)	2/26/2016	TESLA-0000752-753	Delagrande, Romero, Quintero	Relevance	Plaintiff		
92	Email: Owen complaint to Romero/Kawasaki re Ramon; Kawasaki forward to Jackson (Depo Exhibit 155)	10/17/2015	TESLA-0000061	Tom Kawasaki				
103	Email: Garrett and Jackson; need statements for Tesla HR (Depo Exhibit 182, 191)	10/20/2015	NS101102	Wayne Jackson				
104	Tesla Fremont factory, 1 <sup>st</sup> floor map (Depo Exhibit 183)	7/10/2015		Owen Diaz or Ed Romero				
106	Email: Romero to Quintero, Marconi, Garrett re Javier Temores and Troy Dennis “n-word” (Depo Exhibit 187)	12/30/2015	TESLA-0000906	Wayne Jackson, Ed Romero	Relevance	Defendant		
133	Caveman Inki			Ramon Martinez	Hearsay, Foundation <sup>1</sup>	Defendant		

<sup>1</sup> Defendant’s Contention: Only Mr. Martinez can lay the foundation for this exhibit through his testimony. Tesla objects to the admission of this exhibit absent the proper foundation being laid by Mr. Martinez. Plaintiff’s Contention: The Court has already ruled that “exhibits previously admitted will be admitted in the new trial” (Dkt. 376) subject to the limited scope of the new trial. Mr. Martinez was one Plaintiff’s harassers and this exhibit goes directly to the nature of his harassment.

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
200	Owen O Diaz resume (Owen Diaz Depo Exhibit 32)		ODIAZ000181-184	O. Diaz	Relevance	Plaintiff		
202	Standard Operating Procedure (SOP): Elevator 1 & 2 - Building Services I Elevator Operators (Heisen Depo Exhibit 145)		TESLA-0000713-716	O. Diaz	Relevance	Plaintiff		
204	Owen Diaz Job Application to CitiStaff, 6-2-2015 (Owen Diaz Depo Exhibit 1)		CitiStaff-0000034-35	O. Diaz	Relevance	Plaintiff		
205	CitiStaff Assignment Abandonment/Walk-Off Policy, signed by Owen Diaz (Owen Diaz Depo Exhibit 3)	6/2/2015	CitiStaff - 000039	O. Diaz	Relevance	Plaintiff		
222	Email: Owen promotion to lead, changed work week, pay increase (E. Romero Depo Exhibit 46)	8/17/2015	TESLA-0000518-520	O. Diaz	Relevance	Plaintiff		
224	Email: Nancy to Monica Deleon, Owen pay increase	8/23/2015	NS000166	O. Diaz	Relevance	Plaintiff		
229	Email: Owen Diaz to Tom Kawasaki re: Hilda/Aron (Owen Diaz Depo Exhibit 7)	9/20/15	TESLA-0000570	O. Diaz	Relevance, New Exh. <sup>2</sup>	Plaintiff		
234	Email: Martinez to Romero and Torres re Owen unprofessional	10/17/2015	TESLA-0000626		Duplicative of 49	Plaintiff		
235	Email: Diaz to Romero re Ramon threats	10/17/2015	ODIAZ000003		Duplicative of 240	Plaintiff		

<sup>2</sup> Tesla moved *in limine* to include this exhibit.

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
	(E. Marconi Depo Exhibit 34)							
240	Email: Jackson and Garrett chain re Owen's complaint on Martinez; Romero to cancel meetings (Depo Exhibit 35)	10/20/2015	NS000108-111; TESLA-0000140-141					
242	Email: Garrett and Marconi chain re Ramon/Owen incident	10/20/2015	TESLA-0000133-142					
244	Email: Delagrande to Romero and Quintero re cleaning DZ (E. Romero Depo Exhibit 58)	10/23/2015	TESLA-0000663	Delagrande, Romero	Relevance	Plaintiff		
245	Email: Lamar Patterson to Owen re Robert incident	2/26/2016	ODIAZ000206-209					
248	Email: Diaz to Romero re: Rothaj Foster, Jackson response	10/24/15	ODIAZ000205	O. Diaz	Relevance, New Exh. <sup>3</sup>	Plaintiff		
251	Email: Romero, Delagrande, Quintero; Delagrande says "Owen...doing a great job" (E. Romero Depo Exhibit 61)	11/2/2015	TESLA-0000666					
252	Email: Romero, Jackson, Diaz re: Foster (E. Romero Depo Exhibit 63)	11/5/15	TESLA-0000051	O. Diaz	Relevance, New Exh. <sup>4</sup>	Plaintiff		

<sup>3</sup> Tesla moved *in limine* to include this exhibit.

<sup>4</sup> Tesla moved *in limine* to include this exhibit.

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
254	Email: Romero, Jackson, Quintero re: Rothaj Foster	11/6/15	NS000136	O. Diaz, Romero, Jackson	Relevance, New Exh. <sup>5</sup>	Plaintiff		
259	Email: Quintero, Romero, Delagrande re Owen riding bike; issues with DZ (E. Romero Depo Exhibit 67)	11/9/2015	TESLA-0000708-709	Delagrande, Romero	Relevance	Plaintiff		
261	Owen indeed applications (O. Diaz Depo Exhibit 39)	12/3/2015	ODIAZ000162-163	O. Diaz	Relevance	Plaintiff		
265	Lamar Patterson resume to Select Staffing	12/15/2015	ODIAZ000201-203	O. Diaz	Relevance	Plaintiff		
271	Email: Owen complaint to Romero re racist effigy (with pictures); Veronica and Jackson discussion (Owen Diaz Depo Exhibit 14) (W. Jackson Depo Exhibit 130) (L. Ledesma Depo Exhibit 165)	1/22/2016	TESLA-0000004-8	Wayne Jackson	Relevance, New Exh. <sup>6</sup>	Plaintiff		

<sup>5</sup> Tesla moved *in limine* to include this exhibit.

<sup>6</sup> Defendant's Contention: Mr. Jackson was questioned regarding this exhibit at the first trial. *See* Trial Tr. vol. 2, 277:4-11, Sept. 28, 2021. Plaintiff's Contention: : Exhibit 271 was neither moved nor admitted into evidence.

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
272	Email: Owen complaint to Romero re racist effigy (with pictures); Romero forward to nextSource (E. Marconi Depo Exhibit 129)	1/22/2016	TESLA-0000009-13	Wayne Jackson	Relevance, Hearsay, New Exh. <sup>7</sup>	Plaintiff		
274	Email: Owen complaint to Romero re racist effigy (with pictures); nextSource discussion of final warning and update workforce of zero tolerance policy (W. Jackson Depo Exhibit 128) (E. Marconi Depo Exhibit 128) (V. Quintero Depo Exhibit 38)	1/23/2015	TESLA-0000020-24					
284	Email: Owen complaint to Romero re racist effigy; Jackson discussion with Chartwell, they are investigating (W. Jackson Depo Exhibit 126) (E.		NS000133-135		MIL, Hearsay as to certain statements by Ramon Martinez <sup>8</sup>	Plaintiff		

<sup>7</sup> **Defendant's Contention:** This is not a new exhibit; this was stipulated as admissible and admitted at the first trial. *See* Trial Tr. vol. 2, 280:1-3, Sept. 28, 2021. **Plaintiff's Contention:** Exhibit 272 was neither moved nor admitted into evidence. The trial transcript makes clear that Tesla's counsel never moved and the Court never admitted Exhibit 272. *See* Trial Tr. Vol. 2, 279:25-280:10.

<sup>8</sup> Plaintiff failed to object on Hearsay grounds to the admission of this exhibit, which was a properly admitted business record, at the first trial.



Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
	Marconi Depo Exhibit 126) (K. McGinn Depo Exhibit 175)							
287	Email: Jackelin Delgado to Jackson; Romero given final written warning and 3 day suspension (A. Heisen Depo Exhibit 154) (W. Jackson Depo Exhibit 132) (E. Marconi Depo Exhibit 132)	1/25/2016	TESLA-0000730-737					
293	Email: Romero to Jackson, Parks, Quintero re Owen raise (K. McGinn Depo Exhibit 178)	1/28/2016	NS000021; NS000025	O. Diaz, Romero	Relevance	Plaintiff		
296	Email: Delagrande, Romero, Quintero re Owen lack of urgency	2/19/2016	TESLA-0000741-743	Delagrande, Romero	Relevance	Plaintiff		
297	Email: Delagrande, Romero, Quintero re Owen lack of urgency; Delagrande forward to Jay Gardner	2/19/2016	TESLA-0000744-746	Delagrande, Romero	Relevance	Plaintiff		
298	Email: Delgrande, Romero, Quintero re Owen issues; Delagrande wants replacement	2/26/2016	TESLA-0000750-762	Delagrande, Romero	Relevance	Plaintiff		
300	Email: Delagrande, Romero, Quintero re Owen (Owen Diaz Depo Exhibit 20)	2/29/2016	TESLA-0000314-316	Delagrande, Romero	Relevance	Plaintiff		
301	Email: Romero and Jackson; Owen was counseled re	3/2/2016	TESLA-0000317	Romero and Jackson	Relevance	Plaintiff		

Exhibit	Description	Date	Bates	Witness Associated	Objection	Party	Date Identified	Date Admitted
	customer service (Owen Diaz Depo Exhibit 21) (W. Jackson Depo Exhibit 134)							
303	Email: Delagrande, Romero, Quintero re elevator operator replacements	3/4/2016	TESLA-0000321-327	Delagrande, Romero	Relevance	Plaintiff		
306	Email: Romero, Quintero, Jackson re elevator operator replacement (Owen Diaz Depo Exhibit 25) (W. Jackson Depo Exhibit 137)	3/11/2016	TESLA-0000328-329	Romero, Jackson	Relevance	Plaintiff		
308	Email: Romero, Quintero, and Jackson re Owen (Owen Diaz Depo Exhibit 26) (W. Jackson Depo Exhibit 138)	3/17/2016	TESLA-0000330-331	Romero, Jackson	Relevance	Plaintiff		
312	Email: Jackson request to deactivate Owen's badge (K. McGinn Depo Exhibit 180)	3/18/2016	NS000034; NS000036	Jackson	Relevance	Plaintiff		
320	Email: Jackson to Monica Deleon re termination of Owen's contract	3/18/2016	NS000037	Jackson	Relevance	Plaintiff		
324	Email: Quintero notice that Owen employment terminated, cancel Workday account	5/4/2016	NS000032	Quintero	Relevance	Plaintiff		
325	Email: Quintero notice that Owen employment terminated	5/4/2016	TESLA-0000763	Quintero	Relevance	Plaintiff		
368	Tesla Anti-Harassment/Discrimination Policy (Caballero Depo		TESLA-0000217-219	Chavez	Relevance	Plaintiff		

<b>Exhibit</b>	<b>Description</b>	<b>Date</b>	<b>Bates</b>	<b>Witness Associated</b>	<b>Objection</b>	<b>Party</b>	<b>Date Identified</b>	<b>Date Admitted</b>
	Exhibit 33) (D. Di-az Depo Exhibit 20) (W. Jackson Depo Exhibit 118)							
379	Tesla Taleo profile— Candidate: Demetric G. Di-az	10/26/2015	TESLA-0000146- TESLA-0000152	D. Di-az, Owen Diaz	Relevance	Plaintiff		
380	Email: Quintero to Romero RE: Owen Diaz- Verbal Warning (O. Diaz Depo Exhibit 6)	10/2/15	TESLA-0000308- 309	Quintero, Romero, Diaz				

DATED: February 8, 2023

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